

Notice of Allowability

Application No.

09/889,325

Applicant(s)

KITAO ET AL.

Examiner

Art Unit

Christopher H. Yaen

1643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/04/2005.
2. ☒ The allowed claim(s) is/are 7.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 9/9/05, 4/5/02, 1/22/02
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 1222006.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


CHRISTOPHER YAEN
PATENT EXAMINER

Christopher Yaen
Art Unit 1643

EXAMINER'S AMENDMENT

RE: Kitao *et al*

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Sarah Kagan on 1/11/2006.

The application has been amended as follows:

1-6. (Canceled)

7. (Currently amended) A diagnostic agent for Rothmund-Thomson syndrome, wherein the agent comprises a ~~preparation of antibodies~~ monoclonal antibody which specifically binds to a RecQ4 helicase ~~as shown in~~ of SEQ ID No: 4, wherein said antibody binds to amino acids 907-1208 of SEQ ID No: 4.

8-15 (Canceled)

2. The following is an examiner's statement of reasons for allowance:

Kitao *et al* (Genomics 1998; 54(3):443-452) in view of Campbell (Monoclonal Antibody Technology; 1984; Elsevier Science Publishing Company Inc: pages 1-33) is

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the closest prior art available but not cited. Kitao *et al* teach the isolation of the RecQ4 helicase gene (see abstract for example). Campbell *et al* teach that it would be customary for one of ordinary skill in the art to make a monoclonal antibody to a cloned gene (see page 29, last paragraph). One of ordinary skill in the art would have found it obvious to make a antibodies and more specifically a monoclonal antibody against the RecQ4 helicase because Campbell *et al* teach that once a gene has been isolated, those of skill in the art would necessarily make an antibody against any protein in which the gene encodes. However, in the instant case, there is no specific motivation or reasonable expectation of success, that would lead one of skill in the art to make a specific monoclonal antibody against amino acids 907-1204 of SEQ ID No: 4.

All rejections and or objections are withdrawn in view of the applicant's amendments set forth herein.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

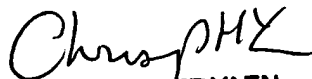
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H. Yaen whose telephone number is 571-272-0838. The examiner can normally be reached on Monday-Friday 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, Ph.D. can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Yaen
Art Unit 1643
January 22, 2006


CHRISTOPHER YAEN
PATENT EXAMINER